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IN THE

Supreme Court of the United States

October Term, 1964

No. 273

JOHN M. KOSSICK,

Petitioner,

v.

UNITED STATES OF AMERICA

ON PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE SECOND CIRCUIT

PETITIONER'S REPLY TO RESPONDENT'S BRIEF

JACOB RASSNFE,
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To the Justices of the Supreme Court of the United States:

In reply to respondent's brief opposing the petition for certiorari, petitioner respectfully submits:

1. Respondent concedes (p. 3) that there is an inter-circuit conflict as to whether state or federal law determines when an action accrues within the meaning of 28 U. S. C. 2401(b), citing *Quinton* v. *U. S.*, (5 Cir.), 304 F. 2d 234 and *Hungerford* v. *U. S.* (9 Cir.), 307 F. 2d 99 as opposed to *Tessier* v. *U. S.* (1 Cir.), 269 F. 2d 305.

2. This inter-circuit conflict, now joined by the Second Circuit in the case at bar, justifies certiorari review by this Court to settle the law on this substantial federal question which also involves the public interest.

3. Respondent's assertion (p. 4, last paragraph) that petitioner's constitutional rights are not violated ignores

the well settled law that depriving a litigant of an available remedy violates his 5th Amendment rights. *Pritchard* v. *Norton*, 106 U. S. 124, 132, 1 S. Ct. 102; *Cochran* v. *Kansas*, 316 U. S. 255, 258, 62 S. Ct. 1068, 1070; *Irvin* v. *Dowd*, 359 U. S. 394, 404, 79 S. Ct. 825, 831.

Wherefore petitioner respectfully prays this Court will grant the petition herein.

Dated: New York, New York,
August 19, 1964.

Respectfully submitted,

JACOB RASSNER,
Counsel for Petitioner.